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DD/S 68-5512

04 NOV 1968

MEMORANDUM FOR: Director of Communications

**SUBJECT : Control of Agency Communications--
Minimum Fallback Position**

1. I have approved the statement of CIA communications policy set forth in Attachment A. It is a good statement.

2. In reference to your cover memorandum of 22 October 1968 I take note of the paragraphs 2b, 2c and 2e which are extracts from the two letters written by Mr. McCone to the Bureau of the Budget in 1962. In each of these paragraphs the position is taken on what I would call a "negative" factor, namely, that if the Director did not take certain steps he would not have completely fulfilled his statutory responsibilities or he could be charged with failure to have completely fulfilled his responsibilities. While these statements are perfectly correct I feel that they are defensive--"negative"--in character and I would tend to use these sparingly in the case of any oral backup in support of our communications policy. Section 102(d)(3) of the National Security Act of 1947 was an authorization to the Director to enable him to take all those actions necessary to carry out the intelligence mission of CIA. It is a positive authority, not negative, and enables him to do any number of things to carry out the mission. Therefore, I would stress that to assure complete control of an uninterrupted, secure communications system and all the byproduct factors entailed the Director has determined that the operation of the communications system will be under his sole command and direction. In this context Agency control of communications will not be qualified or proliferated. Any Governmental action on economy or non-duplicative grounds which calls for the sharing of circuitry or lines or satellite frequencies will only be agreed to when these are dedicated allocations and not subject to administrative, technical or policy qualification.

3. I am simply trying to express the positive approach which I feel gives more force to our argument and permits our negotiators in meetings concerning national communications policy moves to take a positive position vis-a-vis Agency needs rather than reacting on the negative basis.

Att: Memo dtd 22 Oct 68 for DD/S
fr D/C, subj: CIA Minimum
Fallback Position on Control of
Agency Communications

cc: OLC, OGC

SIGNED R. L. Bannerman
R. L. Bannerman
Deputy Director
for Support

MORI/CDF Pages 2 thru

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GROUP 1
Excluded from automatic
downgrading and
declassification

O.C. m. 68-6 20

22 OCT 1968

0015 68-5321

MEMORANDUM FOR: Deputy Director for Support

SUBJECT : CIA Minimum Fallback Position on Control of
Agency Communications

1. This memorandum is for your action. A recommendation will be found in paragraph 3.

2. Earlier this year you asked me to develop a minimum fallback position on control of Agency communications. Accordingly, Attachment C was prepared. It contains a great deal of necessary background information since it was designed to present in one paper all the factors relating to the need for a fallback position. In view of your familiarity with the problem, I suggest that the following extract from Attachment C may be all you will wish to read:

"5. I discussed this entire problem with Mr. John S. Warner, Deputy General Counsel, in order to reaffirm the legal and statutory basis for the Agency's position concerning privacy and control of its communications system. We reviewed the two letters (Reference D) written by Mr. McCone to the Bureau of the Budget in 1962. These letters cited Section 102(d)(3) of the National Security Act of 1947 and Section 6 of P. L. 110. Mr. Warner advised as follows:

"a. Section 102(d)(3) provides '. . . That the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure; . . .' Section 6 of P. L. 110 merely implements Section 102(d)(3) and does not enlarge the Director's responsibility.

"b. The responsibility placed on the Director is a positive duty and clearly requires the Director to take all steps possible to ensure the security of sources and methods. For example, if a part of our communications system were controlled by another agency, it could be charged that the Director had not completely fulfilled his responsibilities for security if there were a leak out of that part of the

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system. The responsibility for an unauthorized disclosure of sources and methods is not lifted off the Director's shoulders merely by his saying that CIA had agreed with another agency that it would control a segment of the communications system and that that agency had agreed to maintain a proper degree of security. The only true control is command control, and responsibility, as placed by statute, cannot be shifted or delegated. It was also pointed out that there have been recent court decisions, both in the Federal District Court and in the Circuit Court of Appeals, recognizing that the statutory responsibility of the Director is a positive one requiring him to take affirmative action to implement it.

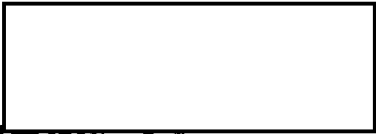
"c. Furthermore, by statute the Director is the principal intelligence adviser to the President. In order to fulfill this role he must not only collect intelligence but he must have a rapid, reliable and secure communications system over which to transport it. Again, in the event of an intelligence failure due to faulty communications, the Director is not relieved of his responsibility because the breakdown occurred in a part of the communications system over which he did not have command control.

"d. It was also pointed out that the CIA Subcommittees in the House and the Senate have been briefed over the years on the Agency's communications system and its accomplishments, both on a routine basis and in crisis situations. In addition, these Subcommittees are well aware of some of the difficulties which have occurred in the Department of Defense communications systems. In view of this, it would appear that, to whatever extent these Subcommittees might become involved in an effort to wrest control of communications from the Agency, they would affirmatively support the Agency and would oppose vigorously any action which could threaten Agency control of its communications system, thus lessening its security and effectiveness.

"e. In summary, there is a sound legal basis for the Agency position. In fact, yielding command control of all or a part of communications would well be construed as a failure by the DCI to fulfill completely his statutory responsibilities."

3. While the above quotation deals with the broad question, I am convinced that we must set forth, in addition, certain communications and other principles that cannot be relaxed or compromised if we are to

help the Director fulfill his statutory responsibilities. Therefore, after consultation with Legal as well as Legislative Counsel (see Attachment B), we have outlined those minimum requirements as stated in Attachment A. I recommend that they be adopted as an Agency position not to be volunteered but to be used as necessary to prevent loss of control, or degradation of effectiveness of the Agency's communications.


Director of Communications

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Atts:

- A. Proposed Agency Policy Position on Control of Agency Communications
- B. Legislative Views on Control of Communications
- C. NCS Representative Memorandum to D/CO on Same Subject

Recommendation contained in paragraph 3 is approved.

SIGNED R. L. Bannerman

04 NOV 1968

Deputy Director for Support

Date

DD/S Distribution:

Orig - Return to D/CO

1 - DD/S Subject

1 - DD/S Chrono

1 - Mr. J. Maury/LC

1 - Mr. J. Warner D/GE

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Statement of CIA Communications Policy

1. The Director of Central Intelligence, as the principal intelligence adviser to the President, must be in command of a world-wide communications system which is keyed to meet the requirements of national intelligence collection.

2. In addition, this system must be designed for maximum security protection so as to enable the DCI to discharge his statutory responsibilities for the protection of intelligence sources and methods from unauthorized disclosure as required by Section 102(d)(3) of the National Security Act of 1947 as amended and the Central Intelligence Act of 1949 as amended (Public Law 81-110). In the accomplishment of the foregoing the following are required:

a. The DCI must be in complete control of his communications system at all times.

b. CIA traffic flowing between its covert activities and Headquarters and among the covert activities must be enciphered regardless of classification.

c. CIA must have end-to-end encryption or its equivalent to protect intra-Agency clear text from unauthorized disclosure during transmission.

d. CIA authorities must control, and CIA cleared and trained personnel must operate all communications facilities where intra-Agency traffic appears in plain text form.

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